

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA)	Filed: May 16, 2000
)	
v.)	Criminal No.: CR H-00-313
)	
MICHAEL HARLESS LAM,)	Violations: 15 U.S.C. § 1
)	18 U.S.C. § 1341
)	
Defendant.)	
)	

INDICTMENT

The Grand Jury charges:

COUNT ONE

CONSPIRACY TO RESTRAIN TRADE (15 U.S.C. § 1)

I

DESCRIPTION OF THE OFFENSE

1. MICHAEL HARLESS LAM is hereby indicted and made a defendant on the charge stated below.
2. Beginning in or about September 1995 and continuing until in or about January 1997 ("the relevant time period"), the exact dates being unknown to the Grand Jury, the defendant, acting on behalf of J. Ray McDermott, S.A. ("J. Ray McDermott"), and co-conspirators entered into and engaged in a combination and conspiracy to allocate projects and to rig bids for heavy-lift installation services provided to customers in the Gulf of Mexico. The charged combination and conspiracy, engaged in by the defendant and co-conspirators in unreasonable

restraint of interstate and foreign trade and commerce, violated Section 1 of the Sherman Act (15 U.S.C. § 1).

3. The charged combination and conspiracy consisted of a continuing agreement, understanding and concert of action among the defendant and co-conspirators, the substantial term of which was to suppress and eliminate price competition for heavy-lift installation services in the Gulf of Mexico.

4. For the purpose of forming and carrying out the charged combination and conspiracy, the defendant and co-conspirators did those things that they combined and conspired to do, including, among other things:

(a) meeting in Leiden, The Netherlands; Penang, Malaysia; Istanbul, Turkey and other places to discuss allocating heavy-lift installation projects in the Gulf of Mexico;

(b) discussing and agreeing upon which conspirator entity would obtain particular contracts to provide heavy-lift installation services;

(c) exchanging proposed bid prices or price ranges for particular contracts to provide heavy-lift installation services;

(d) submitting rigged bids for particular contracts to provide heavy-lift installation services;

(e) entering into contracts to provide heavy-lift installation services based upon the rigged bids;

(f) billing customers for providing heavy-lift installation services at prices based upon the rigged bids; and

(g) collecting payments for providing heavy-lift installation services provided at prices based upon the rigged bids.

II

DEFINITIONS

5. As used in this Count One, the term “heavy-lift installation services” means the services provided by marine construction companies to transport and install offshore oil and gas production platforms and support structures using both launch barges and heavy-lift derrick barges. Heavy-lift derrick barges are large, floating crane vessels equipped with stiff leg or revolving cranes, auxiliary cranes, welding equipment, pile-driving hammers, anchor winches and a variety of additional gear. They have a capacity to lift heavy loads in a marine environment and are capable of offshore operations for extended periods of time in remote locations. The term “heavy-lift derrick barges,” as used in this Count One, refers to those derrick barges with the capacity to lift loads exceeding 4,000 tons.

6. As used in this Count One, the term “ Exclusive Economic Zone of the United States” means the area in the Gulf of Mexico described by Presidential Proclamation No. 5030, 48 Fed. Reg. 10605 (Mar. 10, 1983), *reprinted in* 16 U.S.C. § 1453 (1985).

III

DEFENDANT AND CO-CONSPIRATORS

7. During the relevant time period, the defendant was President of the Marine Construction Services Division of J. Ray McDermott (September 1995 to September 1996) and President of J. Ray McDermott (September 1996 to January 1997). J. Ray McDermott is a Panamanian company based in Houston, Texas. During the relevant time period, J. Ray McDermott was sixty-one (61) percent owned by another company, McDermott International, Inc., also a Panamanian company, based in New Orleans, Louisiana. During the relevant time period, the defendant had primary responsibility for the management of the marine construction services business of J. Ray McDermott, including responsibility for reviewing and approving bid proposals for the provision of heavy-lift installation services.

8. Various corporations, partnerships and individuals, not made defendants in this Count One, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance of the conspiracy.

IV

TRADE AND COMMERCE

9. Many of the world's oil and gas reserves are located in offshore areas. Production platforms are a part of the infrastructure used to produce crude oil and

natural gas from commercially significant subsea reservoirs. In the Gulf of Mexico, many production platforms, including those for which heavy-lift installation services are required, are sited within the Exclusive Economic Zone of the United States.

10. Customers for heavy-lift installation services (crude oil and natural gas production companies) solicit competitive bids and otherwise contract for the installation of offshore structures. During the relevant time period, a limited number of marine contractors were capable of providing heavy-lift installation services, as well as related design and engineering services, to customers in the Gulf of Mexico.

11. The provision of heavy-lift installation services requires, among other things, the undersea installation of templates, piles or other devices to secure a support structure to the ocean floor, the transportation of the support structure to the offshore location for installation, the installation of the support structure (a jacket in the case of a conventional structure or a tower structure in the case of a compliant tower), the transportation of the production platform (deck) to the offshore location and the fixing of the production platform (deck) to the support structure.

12. Support structures and production platforms are comprised largely of steel, but also include substantial equipment -- including valves, pumps, turbines and other machinery -- used to gather, store and transport crude oil and natural

gas. Such steel and equipment is purchased from suppliers in various States and foreign countries and delivered to marine fabrication yards in States other than the States of their origin for assembly. Once built, the support structures and production platforms are loaded onto launch barges or otherwise transported from on-shore locations to locations within the Exclusive Economic Zone of the United States and elsewhere in the Gulf of Mexico for installation and hook up. In the provision of heavy-lift installation services, the launch barges and heavy-lift derrick barges used to transport and install the support structures and platforms navigate between the territorial waters of the Gulf Coast States, including Louisiana and Texas, and the Exclusive Economic Zone of the United States and elsewhere in the Gulf of Mexico.

13. During the relevant time period, substantial quantities of steel and equipment used by J. Ray McDermott in the manufacture of offshore support structures and production platforms were purchased from sources in several States and foreign locations and then used in other States in the fabrication or construction of offshore support structures and production platforms that were installed within the Exclusive Economic Zone of the United States.

14. During the relevant time period, substantial quantities of fuel, food and equipment used by the co-conspirator entities to provide heavy-lift installation services were purchased or otherwise obtained by the co-conspirator

entities from sources in several States and foreign locations and shipped to locations within the Exclusive Economic Zone of the United States.

15. During the relevant time period, the co-conspirator entities purchased substantial quantities of such fuel, food and equipment used in the provision of heavy-lift installation services from suppliers located in various States. These suppliers were paid by check, letter of credit, wire transfer or other monetary instruments drawn on bank accounts in States other than the States in which the suppliers were located.

16. During the relevant time period, bids, proposals, contracts, invoices for payment, payments and other documents essential to the supply of heavy-lift installation services were transmitted in interstate trade and commerce between offices of the co-conspirator entities located in the State of Texas and the offices of customers for heavy-lift installation services located in States other than the State of Texas. During the relevant time period, bids, proposals, contracts, invoices for payment, payments and other documents essential to the supply of heavy-lift installation services were transmitted in interstate trade and commerce between offices of the co-conspirator entities located in the State of Louisiana and the offices of customers for heavy-lift installation services located in States other than the State of Louisiana.

17. During the relevant time period, certain customers paid for heavy-lift installation services by check, letter of credit, wire transfer or other monetary

instruments drawn on banks located outside of the State of Texas that were transmitted to banks of the co-conspirator entities located in the State of Texas. As a result, during the relevant time period, a substantial portion of the revenues received by the co-conspirator entities for the provision of heavy-lift installation services was in the flow of interstate trade and commerce.

18. During the relevant time period, the co-conspirator entities had offices and other facilities located outside of the State of Texas and routinely transferred employees and equipment from these offices and facilities to places in the State of Texas.

19. During the relevant time period, the heavy-lift installation services provided to customers in the United States by the co-conspirator entities, which are the subject of this Count One, were in the flow of, and substantially affected, interstate and foreign trade and commerce.

V

JURISDICTION

20. The combination and conspiracy charged in this Count One was carried out, in part, within the Southern District of Texas within the five years preceding the return of this Indictment.

IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.

The Grand Jury further charges:

COUNT TWO

MAIL FRAUD (18 U.S.C. § 1341)

1. MICHAEL HARLESS LAM is hereby indicted and made a defendant on the charge stated below.

2. Each and every allegation contained in paragraphs 5-7 of Count One of this Indictment is here realleged with the same force and effect as if fully set forth in this Count.

DESCRIPTION OF THE OFFENSE

3. Beginning in or about September 1995 and continuing until in or about January 1997, the exact dates being unknown to the Grand Jury, the defendant and his co-schemers, within the Southern District of Texas and elsewhere, as part of an ongoing arrangement, did devise and intend to devise a scheme and artifice to defraud and to obtain money and property from purchasers of heavy-lift installation services by means of false and fraudulent pretenses, in violation of 18 U.S.C. § 1341. The object of the scheme and artifice to defraud was to deprive purchasers of heavy-lift installation services of free and open competition for the award of heavy-lift installation contracts. The scheme consisted of an ongoing arrangement by the defendant and his co-schemers to allocate prospective contracts for heavy-lift installation projects in the Gulf of

Mexico and to submit rigged bids to purchasers of services for the award of such contracts.

4. It was part of the scheme and artifice to defraud that the defendant and his co-schemers agreed to allocate the Garden Banks Block 260 "Baldpate" project to a co-schemer entity. In furtherance of the scheme and artifice to defraud, J. Ray McDermott and the co-schemer entity submitted noncompetitive, rigged bids to Amerada Hess Corporation ("AHC") for the supply of heavy-lift installation services in connection with the Baldpate project. Based on these rigged bids, AHC awarded the Baldpate project to HeereMac, v.o.f.

5. On or about July 31, 1996, the exact date being unknown to the Grand Jury, for the purpose of executing the scheme and artifice to defraud and attempting to do so, the defendant and his co-schemers knowingly caused to be delivered by mail according to the direction thereon, by the United States Postal Service, an envelope addressed to Heerema Offshore Services U.S., Inc. ("HOSUS"), at 17154 Butte Creek, Suite 200, Houston, Texas 77090, that contained a check from AHC to HOSUS for \$338,462 in payment for heavy-lift installation services provided by HeereMac, v.o.f. (an entity related to HOSUS) in connection with the Baldpate project.

IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1341.

The Grand Jury further charges:

COUNT THREE

MAIL FRAUD (18 U.S.C. § 1341)

1. MICHAEL HARLESS LAM is hereby indicted and made a defendant on the charge stated below.

2. Each and every allegation contained in paragraphs 5-7 of Count One and paragraph 3 of Count Two of this Indictment is here realleged with the same force and effect as if fully set forth in this Count.

DESCRIPTION OF THE OFFENSE

3. It was part of the scheme and artifice to defraud that the defendant and his co-schemers agreed to allocate the Viosca Knoll Block 786 “Petronius” project to J. Ray McDermott. In furtherance of the scheme and artifice to defraud, J. Ray McDermott and a co-schemer entity submitted noncompetitive, rigged bids to Texaco, Inc. (“Texaco”) for the supply of heavy-lift installation services in connection with the Petronius project. Based on these rigged bids, Texaco awarded the Petronius project to J. Ray McDermott.

4. On or about December 24, 1996, the exact date being unknown to the Grand Jury, for the purpose of executing the scheme and artifice to defraud and attempting to do so, the defendant and his co-schemers knowingly caused to be delivered by mail according to the direction thereon, by the United States Postal Service, an envelope addressed to J. Ray McDermott at the Texas Commerce

Bank, Account # 00100912600, P.O. Box 201065, Houston, Texas 77216, that contained a check from Texaco to J. Ray McDermott for \$1,515,600 in payment for heavy-lift installation services provided by J. Ray McDermott in connection with the Petronius project.

IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1341.

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